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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,406	04/12/2004	Todd Gray	1001-138	2891

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EXAMINER

GUTMAN, HILARY L

ART UNIT PAPER NUMBER

3612

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/822,406

Applicant(s)

GRAY, TODD

Examiner

Hilary Gutman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2005 and 26 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-23, 25-27, 29-32, 34-36, 38-42, 44 and 45 is/are rejected.
- 7) ☒ Claim(s) 24, 28, 33, 37 and 43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/13/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mechanical fastener or an adhesive of claim 21 and the pillar of claim 33 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 21-22, 25-26, 30-31, 39-42, and 44-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Blank (6,519,854).

Blank discloses the claimed invention including a locating member 66 attached to a carrier member with a mechanical fastener (such as a ball and socket). Sealant 74 is disposed upon the locating member. The locating member is “integrally” formed with the carrier member in that the members are united by fastening means. The carrier member is a nylon or metal material both of which can be molded compounds. The locating member functions as a baffle to substantially physically separate portions of the cavity from each other. The reinforcement material is thermally expandable via heat.

4. Claims 21-23, 25-27, 29, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Hopton et al. (6,253,524).

Hopton et al. disclose the claimed invention including: a reinforcing member 20 having a carrier 28 and a reinforcement material 86 indirectly disposed upon an outer surface of the carrier member; and a locating member 40, 42 attached to a carrier member 28 with a

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mechanical fastener 74. The reinforcement material 86 acts as a sealant and is disposed upon the locating member. The locating member includes a panel 78 that overlays a surface of the reinforcement member. The carrier member can be formed of sheet metal which can be a molded compound. The locating member includes at least three locating members (two on an upper surface of the reinforcement member and at least one on a lower surface thereof). The outer surface of the carrier member includes a concave side surface and a convex side surface as evidenced by the bends or curves in the C-shaped reinforcement member. The reinforcement material is heat reactive and may melt upon heating.

5. Claims 21, 25-26, 29, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Barz et al. (6,311,452).

Barz et al. '452 disclose the claimed invention including a locating member 48 attached to a carrier member by a mechanical fastener (Figures 3 and 5). The locating member is integrally formed with the carrier member in that the member are united by fastening means. The outer surface of the carrier member includes a concave side surface and a convex side surface (Fig 1). The carrier member 20 can be formed of light weight steel or high strength plastics (both of which can be molded compounds). The reinforcement material is configured to foam upon exposure to heat.

6. Claims 32, 35-36, and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Barz et al. (6,467,834).

Barz et al. '834 disclose the claimed invention including a locating member (or end panel, not numbered but best seen in Figure 8) which includes a panel that overlays a surface of a reinforcement member. The locating member is integrally formed with the carrier member (Figure 8). The carrier member is preferably formed from injection molded plastics, such as nylon. The locating member functions as a baffle and physically substantially separates portion of the cavity from each other.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barz et al. '834 in view of Blank (6,519,854).

Barz et al. '834 lack a sealant material disposed upon the locating member.

Blank (6,519,854) teaches placing sealant material upon a locating member.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided sealant material as taught by Blank upon the locating member of Barz et al. '834 in order to further encapsulate the reinforcement member within the structure and thereby strengthen the structure.

Allowable Subject Matter

9. The indicated allowability of claims 3, 5, and 8 is withdrawn in view of the newly discovered reference(s) to Barz et al., Hopton et al., and Blank. Rejections based on the newly cited reference(s) are set forth above.
10. Claims 24, 28, 33, 37, and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments with respect to the claim have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 571-272-6662.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hilary Gutman
November 30, 2005